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Jun 04, 2019

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PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

SEAN F. McAVOY, CLERK

United States District Court		District: <u>Eastern Washington</u>
Name (under which you were convicted): <u>IRAL West</u>		Docket or Case No.: <u>1:19-CV-3124-SMJ</u> <u>18-10083639</u> <u>A9 18-100-83639</u>
Place of Confinement: <u>Coyote Ridge Correctional Center, WA</u>	Prisoner No.: <u>704227</u>	
Petitioner (include the name under which you were convicted) <u>IRAL West</u>		Respondent (authorized person having custody of petitioner) <u>State of Washington</u>
The Attorney General of the State of: <u>Washington</u>		

PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

IRA West (Yakima County)

- (b) Criminal docket or case number (if you know):

18-10083639 / A9 18-100 83639

2. (a) Date of the judgment of conviction (if you know):

7-2-2018

- (b) Date of sentencing:

07-2-18

3. Length of sentence:

30 mo.

4. In this case, were you convicted on more than one count or of more than one crime?

☒ Yes☐ No

5. Identify all crimes of which you were convicted and sentenced in this case:

(1) Assault 2nd DV (2) Felony VICO, DV
(3) Felony Harassment, DV (4) Felony Harassment
(5) Felony Harassment (6) Felony Harassment
(7) Felony Harassment & VICO, DV

6. (a) What was your plea? (Check one)

☐ (1)

Not guilty

☒ (3)

Nolo contendere (no contest)

☒ (2)

Guilty

☐ (4)

Insanity plea

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(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? Not Applicable

(c) If you went to trial, what kind of trial did you have? (Check one)

☐ Jury☐ Judge only

** The State of Washington denied me my Article III Constitutional right to a trial by Jury through the abuse of its power to imprison in order to inflict sufficient duress in order for me to enter into a contract of guilt.*

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐ Yes☒ No

8. Did you appeal from the judgment of conviction?

☐ Yes☒ No

9. If you did appeal, answer the following:

(a) Name of court: _____

(b) Docket or case number (if you know): _____

(c) Result: _____

(d) Date of result (if you know): _____

(e) Citation to the case (if you know): _____

(f) Grounds raised: _____

(g) Did you seek further review by a higher state court?

☐ Yes☐ No

If yes, answer the following:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Result: _____

(4) Date of result (if you know): _____

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(5) Citation to the case (if you know): _____

(6) Grounds raised: _____

(h) Did you file a petition for certiorari in the United States Supreme Court?

☐ Yes☒ No

If yes, answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☐ Yes ☒ No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

(7) Result: _____

(8) Date of result (if you know): _____

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(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

(7) Result: _____

(8) Date of result (if you know): _____

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

(7) Result: _____

(8) Date of result (if you know): _____

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ~~Yes~~ ☒ Yes ☐ No

(2) Second petition: ☐ Yes ☐ No

(3) Third petition: ☐ Yes ☐ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

The State of Washington does not have jurisdictional authority to decide on United States Constitution matters, which are outside its jurisdictional or statutory governing limits.

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: I am currently illegally and unlawfully imprisoned as a result of the abrogation of my federally conferred Constitutional rights by the State of Washington and its willful defiance of the established procedures and processes set forth by the U.S. Constitution.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The 5th Amendment to the United States Constitution guarantees that, "No person shall be held to answer for a capital or otherwise infamous crime, unless on the presentment or indictment of a Grand Jury." Article I, Section 26 of the Washington State Constitution states, "No grand jury shall be drawn or summoned in any county, except the superior judge thereof shall order," which directly contradicts the United States Constitution and the Laws of the U.S., as well as violates the duly established procedures and processes of the Law. As a result of the States willful defiance of the due process for the adjudication of Crimes, no bill of indictment has been brought against me therefore, my arrest, my conviction and my imprisonment are all illegal.

(b) If you did not exhaust your state remedies on Ground One, explain why: My rights as a United States Citizen are guaranteed to me by the United States Constitution therefore, the court with jurisdictional authority to decide whether to enforce or deny me of such a right is a court of federal jurisdiction. As long as the State of Washington is acting in willful defiance of the federally established procedures or processes for the adjudication of Crimes, its acts resulting in the willful deprivation of life, liberty or property can only be resolved through the petition of grievances to the authority providing such inalienable rights.

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(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No(2) If you did not raise this issue in your direct appeal, explain why: The State of Washington does not have the jurisdictional authority to decide on United States Constitution matters, which are outside it's jurisdictional or statutory governing limits.

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes ☐ No(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

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(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: There are no remedies or alternate procedures as long as the State is acting in willful defiance of federal processes and statutes.

GROUND TWO: I am currently illegally and unlawfully imprisoned as a result of the abrogation of my federally conferred Constitutional rights by the State of Washington and its willful defiance of the established procedures and processes set forth by the U.S. Constitution.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Article IV, Section 2, of the United States Constitution guarantees that, "The citizens of each state shall be entitled to all privileges and immunities of Citizens in the several states." Article VI of the United States Constitution provides that, "This Constitution and the Laws of the United States... shall be the supreme Law of the Land and the Judges in every State shall be bound thereby any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."
The State of Washington is acting in willful defiance of federal statutes by denying its residents the same Constitutionally guaranteed rights for due process of the Law that are available to residents of the several states. Therefore, my Constitutional rights have been violated and my arrest, my conviction and my imprisonment are all illegal.

(b) If you did not exhaust your state remedies on Ground Two, explain why: The State of Washington has abrogated my federally conferred Constitutional rights therefore, no state court has jurisdictional authority to adjudicate this matter, because states do not have the jurisdictional authority to rule on issues outside of their limited jurisdictional or statutory governing authority.

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why: The State of Washington does not have the jurisdictional authority to decide on United States Constitution matters, which are outside its jurisdictional or statutory governing limits.

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

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Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: There are no remedies or alternate procedures as long as the State is acting in willful defiance of federal processes and statutes.

GROUND THREE: I am currently illegally and unlawfully imprisoned as a result of the abrogation of my federally conferred Constitutional rights by the State of Washington and its willful defiance of the established procedures and processes set forth by the U.S. Constitution.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The 13TH Amendment to the United States Constitution provides that, "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." Because due process of the law was ignored and the State abrogated my federally conferred inalienable rights, I have not been duly convicted of any crimes and as a result, my enslavement and placement into involuntary servitude under Washington DOC is in direct violation of my 13TH Amendment Constitutional rights.

(b) If you did not exhaust your state remedies on Ground Three, explain why: The State of Washington has abrogated my federally conferred Constitutional rights therefore, no state court has jurisdictional authority to adjudicate this matter, because States do not have jurisdictional authority to rule on issues outside of their limited jurisdictional or statutory governing authority. Since the United States Constitution is the originator of my inalienable rights, only a United States Court has the jurisdictional authority to decide whether to enforce or deny a United States Citizen of his Constitutional guarantees.

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why: The State of Washington does not have the jurisdictional authority to decide on United States Constitution matters, which are outside its jurisdictional or statutory governing limits.

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: There are no remedies or alternate procedures as long as the State is acting in willful defiance of federal processes and statutes.

GROUND FOUR: I am currently, illegally and unlawfully imprisoned as a result of the abrogation of my federally conferred Constitutional rights by the State of Washington and its willful defiance of the established procedures and processes set forth by the U.S. Constitution.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

In light of the complete disregard of my 5th Amendment rights by the State of Washington and in the absence of compliance with the due process of law, no bill of indictment has been brought against me making all charges against me fraudulent and illegal. Therefore, my arrest, my conviction and my imprisonment are also illegal. The willful deprivation of my life, liberty and property by the State of Washington are now in violation of my 14th Amendment Constitutional rights, which provide that, "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." The State of Washington had no legal authority to establish Article I, Section 26 of its Constitution without violating the Laws of the United States and the rights of its Citizens.

(b) If you did not exhaust your state remedies on Ground Four, explain why: My rights as a United States Citizen are guaranteed to me by the United States Constitution therefore, the only court with jurisdictional authority to decide whether to enforce or deny me of such a right is a court of federal jurisdiction.

- (c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why: The State of Washington does not have the jurisdictional authority to decide on United States Constitution matters, which are outside its jurisdictional or statutory governing limits.

- (d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

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Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

☐ Yes☐ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: There are no remedies or alternate procedures as long as the State is acting in willful defiance of federal processes and statutes. I have Constitutional guarantees, but a guarantee ceases to be a guarantee the moment that it is no longer guaranteed. A guarantee can not only be guaranteed part of the time, or only guaranteed until the guarantee is needed, because that is not a guarantee, rather a lie.

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13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☒ Yes ☐ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not

presenting them: *No state court has jurisdiction as long as the State of Washington is acting in willful defiance of the federally established**Procedures and processes for the adjudication of crimes. Therefore, its acts, resulting in the willful deprivation of life, liberty or property, can only be resolved through the Petition of grievances to the authority providing such inalienable rights.*

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which

ground or grounds have not been presented, and state your reasons for not presenting them: *No grounds**herein have been raised at state level as the state has no jurisdictional authority over federal Constitutional matters. This petition and all ground herein raised represent my first attempt to receive federal relief from the willful deprivation of my life, liberty, and property by the State of Washington.*

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction

that you challenge in this petition? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

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16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: *the State of Washington denied me my constitutional right to a preliminary hearing as "no grand jury shall be drawn or summoned in any county."*

(b) At arraignment and plea: _____

(c) At trial: _____

(d) At sentencing: _____

(e) On appeal: _____

(f) In any post-conviction proceeding: _____

(g) On appeal from any ruling against you in a post-conviction proceeding: _____

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: _____

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☐ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

Not Applicable

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* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
 - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

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- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief:

The State of Washington has denied me my Constitutional rights, therefore, I request the

Federal government to intervene and

uphold the constitutional rights of one United States citizen in order to preserve the constitutional rights of all United States citizens because any freedom which can be removed from one can be removed from all and is no longer a freedom, but an illusion of freedom

or any other relief to which petitioner may be entitled.

Pro Se

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on 06-3-2019 (month, date, year).

Executed (signed) on 6-3-2019 (date).

[Signature]

Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

